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INDIGENOUS ISSUES

Written statement* submitted by Centre Europe-Tiers Monde,
a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 December 1999]

* This written statement is issued, unedited, as received from the submitting non-governmental organization.

THE HUMAN RIGHTS OF THE INDIGENOUS PEOPLES OF MEXICO

According to official data, there are 8 million indigenous Mexicans (10 per cent of the total population of the country). However, various estimates from indigenous sources and research put the number of people who make up the indigenous peoples found in large areas of Mexican territory, and who have their own recognized social and cultural identity and language, at 15 million. These peoples are mostly concentrated in the States of Oaxaca, Veracruz, Chiapas, Puebla, Yucatán, Hidalgo and Guerrero, in many of which indigenous people make up over two thirds of the population.

The situation in which the native peoples have historically found themselves since the Spanish invasion of America is one characterized by submission and by political, social and cultural oppression, marked by inhuman conditions of marginalization, destitution and extreme poverty. Illiteracy, high infant and adult mortality rates, malnutrition, unemployment, overcrowding and the seizure of lands are among the features that typify the prevailing situation of the first inhabitants of Mexican territory.

The causes of the situation described very briefly above are many and interrelated. However, at least two of them can be identified as root causes. The first and most basic issue to be taken into account concerns a view of indigenous people that dates back to colonial times and persists to this day: in Mexico, as in the rest of the American continent, indigenous people are seen as people who are not in possession of all their faculties and who do not have all their "wits" about them, so that they are not considered "fit" to take decisions on their own future. Given this supposed deficiency, the State refuses to allow them to govern themselves according to their own rites and customs, to make their own political choices, to take care of their own business and to look after their resources. As a result, the Mexican State and society at large do not recognize indigenous people as subjects of law or as citizens, and indigenous peoples are denied their collective rights.

Because of this, we can say that until the Mexican Federal Constitution and the current legal system are adapted to the multicultural reality of the country and guarantee the recognition and full exercise of the rights of indigenous peoples, it will be difficult even to talk about the observance of the civil and political rights of those peoples.

In this context, there follows a list of recommendations designed to open the way to a change for the better in the situation of the indigenous peoples in Mexico:

1. The Mexican Government should comply with the international legal norms to which it has already acceded, including the International Labour Organization (ILO) Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, the Convention on Biological Diversity, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights;

2 The Mexican Government should examine the draft instruments that would further the recognition of indigenous peoples, such as the draft United Nations declaration on the rights of indigenous peoples and the draft American declaration on the rights of indigenous peoples.

3 The Mexican Government should ensure the effective implementation of the San Andrés accords on indigenous rights and culture, signed in 1996 by the National Liberation Zapatista Army (EZLN) and the federal Government.

4 The Mexican Government should act to put a stop to the increasing militarization of the regions in the country with the largest indigenous population, such as the states of Oaxaca, Chiapas and Guerrero.

5 The Mexican Government should undertake, and should take specific measures, to investigate serious violations of the human rights of indigenous communities at the hands of paramilitary groups, and should put an end to the impunity that prevails in areas with similar conflicts (especially Chiapas, Guerrero and Oaxaca).

6 The Mexican Government should make it possible for indigenous peoples to pursue the establishment of autonomy at any level, as an exercise in self-determination, which means taking into account at least the following four essential elements:

(a) A political and territorial base,

(b) A jurisdiction of their own, corresponding to the specified territorial area, within which government and justice are administered,

(c) Self-government or autonomous government,

(d) Their own powers or authority, whether exclusive or shared with other government bodies (federal, state) that shape the political decentralization crucial to any autonomous regime, all of which should be constitutionally and legally regulated within the legal framework of the State.

7 The Mexican Government should follow through on the various declarations of the international community, the European Parliament, the United Nations High Commissioner for Human Rights, international human rights organizations and other bodies concerning the situation of the indigenous peoples in Mexico.

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The current situation of the communities in indigenous areas and, by extension, in the rest of the states of the Mexican Republic has deteriorated recently, as has been revealed by various institutions and organizations from Mexican and international civil society. During its second visit to assess the situation in Mexico, from 15 to 25 November, the International Civil Commission for the Observation of Human Rights (CCIODH), with 40 members from 10 countries, held talks with all those involved in the conflict: the Government, civil society and

opposition indigenous communities, mostly in Chiapas. It was observed that there had been a worsening of the situation of the indigenous population and a deterioration in living conditions and human rights violations.

There are now some 20,000 people displaced by paramilitary violence who are living in camps, away from their villages and lands, unable to return to their homes after two years of flight and suffering from the military presence and paramilitary violence, which prevents them from returning under reasonable conditions. Their situation has become untenable. Sometimes depending for food on international aid delivered by the International Committee of the Red Cross, they have been abandoned to their fate.

Impunity is rife and strikes fear and terror into the heart of the communities, for example, many of the Acteal killers are still at liberty, walking the streets with guns and terrorizing the survivors, while the masterminds behind the killing have not been accused or brought to trial. This impunity encourages the paramilitary groups to carry on with their activities.

The presence of over 70,000 soldiers in Chiapas (the number of soldiers and military facilities is growing all the time) is affecting the daily life of the communities, who have to put up with checkpoints, the occupation of their lands and interference with their traditional power structures, leading to imprisonment and arrests.

All these observations are based on evidence included in the report handed over to the European Parliament on 14 December by a delegation from the Commission, which believes that international monitoring of the observance of human rights is fundamental to the fulfilment of the agreements signed by the Mexican Government and that there should be regular, permanent and effective instruments, involving Mexican and international civil society, to ensure they are fulfilled.

The expulsion of international observers and the threats against Mexican non-governmental organizations effectively remove the witnesses who speak on behalf of the victims of these violations and show that the Mexican Government lacks the will to comply with the agreements in an open and trustworthy manner, for which it has been denounced in various forums and institutions.

The adoption of the San Andrés accords and their translation into the legal form of a constitutional amendment, in accordance with the plan prepared by the Concord and Peace Commission (COCOPA), would be the first steps towards opening up a dialogue in the search for a peaceful, fair and dignified solution to the conflict.

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As stated in a document prepared by various Mexican civilian and social organizations in a review of the third periodic report of the Mexican Government (1992-1996)[1]

> "Our country is experiencing a serious deterioration in the general living conditions of a growing number of Mexican men and women, largely as a result of the structural adjustment policies implemented in the last 17 years, which give priority to the

stability of macroeconomic indicators and the market rather than the well-being of the population. This deterioration has become more pronounced since the entry into force of the North American Free Trade Agreement (NAFTA) in 1994. These policies - in their design, execution and consequences - have clearly been shown to be incompatible with the objectives and spirit of the International Covenant on Economic, Social and Cultural Rights, as they merely exacerbate the economic and social inequalities in the population."

The policies for targeting social spending that have guided the national anti-poverty programmes implemented in recent years are of an exclusive nature, they merely provide assistance and act as palliatives. There are no proposals to root out the structural causes of poverty. This kind of programme - for example, the Education, Health and Food Programme (PROGRESA) mentioned by the Mexican Government in its third report to the Committee - is used for political and electoral purposes, reinforcing discrimination and holding up the creation of the kind of truly democratic system that is vital for social development.

Poverty hits rural populations hardest, especially the 10 million or more indigenous Mexicans. It is unacceptable that some of the Mexican states that are richest in natural and cultural resources (such as Chiapas, Guerrero, Oaxaca and Veracruz) should have the highest levels of poverty and exclusion in the country. This situation is getting worse in some communities where institutional violence persists, as reflected in the systematic violation of human rights and the impunity which has prevailed for many years in, for example, Chiapas - where it has worsened since the beginning of the armed conflict in 1994.

Note

[1] Third periodic report of Mexico, E/1994/104/Add.18. Alternative report by Mexican civil, social and network organizations to the third periodic report of the Mexican Government to the United Nations Committee on Economic, Social and Cultural Rights, October 1999.